

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

DELINDA M. MARTINS,)	
)	
Plaintiff,)	
)	
v.)	C.A. No.: 1:15-cv-00235-M-LDA
)	
FEDERAL HOUSING FINANCE AGENCY,)	
FEDERAL NATIONAL MORTGAGE)	
ASSOCIATION AND GREEN TREE)	
SERVICING, LLC)	
)	
Defendants.)	
)	

**DEFENDANT GREEN TREE SERVICING LLC’S STATEMENT OF UNDISPUTED
MATERIAL FACTS**

Defendant Green Tree Servicing LLC, now known as Ditech Financial LLC (“Green Tree”) submits this Statement of Undisputed Material Facts in support of its Motion for Summary Judgment.

1. On or about January 23, 2007, Shamrock Finance Corporation (“Shamrock”) issued a loan to Martins in the original principal amount of \$195,000 (the “Loan”) and Martins signed a note payable to Shamrock (the “Note”) and a mortgage granting Mortgage Electronic Registration Systems, Inc. (“MERS”) as nominee for Shamrock a security interest in the Property (the “Mortgage”). (Affidavit of Stewart Derrick (“Green Tree Aff.”) filed April 13, 2016, Dk. No. 24, at ¶¶ 4-6; Note, a genuine copy of which is attached to Fannie Mae’s Statement of Undisputed Facts filed April 13, 2016, Dk. No. 23 (“FMSOF”), as **Exhibit A**; Mortgage, a genuine copy of which is attached to the FMSOF as **Exhibit B**.)

2. By Assignment dated May 13, 2008, MERS transferred the Mortgage to Fannie Mae. (Green Tree Aff. at ¶ 7; Assignment, a genuine copy of which is attached to FMSOF as **Exhibit C.**)

3. In or around January 2008, Martins began to fall behind on her mortgage payments and defaulted. (Green Tree Aff. at ¶ 8; Affidavit of Stewart Derrick (“Second Green Tree Aff.”), filed contemporaneously herewith, at ¶ 3; Payment History at 9-10, a genuine copy of which is attached to Green Tree’s Statement of Undisputed Facts (“GTSOF”) as **Exhibit 1.**)

4. Although Martins made some additional payments, she never cured the default and the loan is due for October 1, 2009. (*Id.*; Second Green Tree Aff. at ¶ 3; Payment History at 5-10.)

5. On June 1, 2013, Green Tree began servicing the Loan on behalf of Fannie Mae. (Second Green Tree Aff. at ¶ 4; Notice of Assignment, Sale or Transfer of Servicing Rights, a genuine copy of which is attached to GTSOF as **Exhibit 2.**)

6. By “Notice of Default and Right to Cure Default” dated February 11, 2014, Green Tree, on behalf of Fannie Mae, informed Martins that *inter alia* she was “now in default” for “[f]ailure to submit your monthly mortgage payments due 10/1/09 through 02/01/2014” and that she had the right to “cure [the] default by sending the total amount of \$93,240.41” within thirty (30) days. (Second Green Tree Aff. at ¶ 5; February 11, 2014 Letter, a genuine copy of which is attached to GTSOF as **Exhibit 3.**)

7. By Notice of Default and Mortgagee’s Right to Foreclose and Notice of Availability of Mortgage Counseling Services dated February 12, 2014, Green Tree informed Martins of *inter alia* the default and provided contact information for organizations that provided

mortgage counseling services. (Green Tree Aff. at ¶ 10; Notice of Default, a genuine copy of which is attached to the FMSOF as **Exhibit D.**)

8. By letter dated April 22, 2014, Harmon Law Offices, P.C., on behalf of Fannie Mae, informed Martins that the debt had been accelerated and of her right to reinstate by paying the total amount due. (Affidavit of Rowdy Cloud (“Harmon Aff.”) filed April 13, 2016, Dk. No. 25, at ¶ 3; Notice of Acceleration, a genuine copy of which is attached to the FMSOF as **Exhibit I.**)

9. Martins did not reinstate the Loan. (Green Tree Aff. at ¶¶ 8, 14; Payment History; Payoff Quote, a genuine copy of which is attached to the FMSOF as **Exhibit H.**)

10. By Notice of Mortgage Foreclosure Sale dated May 8, 2014, Harmon, on behalf of Fannie Mae, informed Martins that a foreclosure sale was scheduled for July 3, 2014. (Harmon Aff. at ¶ 4; Green Tree Aff. at ¶ 11; Notice of Sale, a genuine copy of which is attached to the FMSOF as **Exhibit E.**)

11. Notice of the foreclosure sale was subsequently published in the Pawtucket Times on June 12, 19 and 26, 2014. (Green Tree Aff. at ¶ 12; Foreclosure Deed, a genuine copy of which is attached to the FMSOF as **Exhibit F.**)

12. On July 3, 2014, Fannie Mae conducted a foreclosure sale and was the highest bidder at the sale. (Green Tree Aff. at ¶ 12; Foreclosure Deed.)

13. By Foreclosure Deed dated August 5, 2014, title to the Property was transferred to Fannie Mae. (Green Tree Aff. at ¶ 12; Foreclosure Deed.)

14. On August 5, 2014, Green Tree as servicer for Fannie Mae, recorded an “Affidavit of Exemption from R.I. Gen Laws § 34-27-3.2” representing that Green Tree and Fannie Mae were “exempt from complying with R.I. Gen. Laws § 34-27-3.2 because the

Mortgagor is or was more than one hundred twenty days delinquent on or before September 12, 2013” (“Affidavit of Exemption”). (Second Green Tree Aff. at ¶ 6; Affidavit of Exemption, a genuine copy of which is attached to GTSOF as **Exhibit 4.**)

15. On August 19, 2015, Fannie Mae filed a motion to set aside and rescind the foreclosure. Dk. No. 10.

16. On August 24, 2015, this Court granted Fannie Mae’s Motion and issued an order rescinding the foreclosure (the “Order”). Dk. No. 13.

17. The Order was recorded in the Land Evidence Records for the Town of Smithfield, Rhode Island, at Book 1018, Page 316. (Green Tree Aff. at ¶ 13; Recorded Order, a genuine copy of which is attached to the FMSOF as **Exhibit G.**)

18. On September 1, 2015, Fannie Mae asserted a counterclaim for judicial foreclosure. Dk. No. 14.

19. On April 13, 2016, Fannie Mae filed a motion for summary judgment on its counterclaim. Dk. Nos. 21, 22.

Defendant

GREEN TREE SERVICING LLC

By Its Attorney,

/s/ Amy B. Hackett

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Dated: May 20, 2016

CERTIFICATE OF SERVICE

I, Amy B. Hackett, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 20, 2016.

/s/ Amy B. Hackett

Amy B. Hackett